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September 28, 2017

**VIA ECF FILING**

Katherine H. Parker, U.S.M.J.  
U.S. District Court, Southern District of New York  
500 Pearl Street, Room 1950  
New York, New York 10007

**Re: Brown v. Barnes and Noble, Inc.**  
**Civil Action No. 16-cv-07333 (RA) (KHP)**

Dear Judge Parker:

This firm represents defendant Barnes & Noble, Inc. in the above-referenced case. We are writing, pursuant to Section III(b) of Your Honor's Individual Practices, to request a Pre-Motion Conference in advance of seeking the dismissal of three opt-ins who, according to their attorneys, are no longer participating in this lawsuit.

By way of background, the named plaintiffs in this wage and hour lawsuit are former Barnes & Noble Café Managers. They seek to assert Fair Labor Standards Act and New York Labor Law claims on behalf of themselves and other current and former Café Managers throughout the United States. On May 2, 2017, the Court denied plaintiffs' Motion for Conditional Certification without prejudice. Rosa DeVito, Tabitha McDonald and Margaret Mann are among the individuals who have filed "Consent to Join" forms, seeking to opt into this lawsuit.

Barnes & Noble has served DeVito and McDonald with discovery requests, which are now overdue. Similarly, they have not appeared for depositions or provided their availability to sit for depositions. Opposing counsel has informed us that DeVito and McDonald have not responded to communications. Barnes & Noble also served Mann with discovery requests. She provided responses, but has not appeared for a deposition or provided her availability to do so. Opposing counsel has informed us that Mann intends to withdraw from the case, as she does not fall within the putative class or collective. To date, however, she has not withdrawn.

Given that DeVito, McDonald and Mann have apparently stopped participating in this lawsuit, we respectfully request that the Court dismiss them from the case.

Thank you for Your Honor's attention to this matter.

Respectfully submitted,

/s/Daniel H. Aiken

DANIEL H. AIKEN

cc: Counsel of Record (via ECF)

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